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| 10/027,073      | 12/20/2001  | William C. Dengler   | 2824/1              | 9825             |

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EXAMINER

BLECK, CAROLYN M

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
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3626

DATE MAILED: 03/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/027,073

Applicant(s)

DENGLER, WILLIAM C.

Examiner

Carolyn M Bleck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the application filed 20 December 2001. Claims 1-28 are pending. An IDS statement has not been entered or considered.

### ***Specification***

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. The following title is suggested: Internet-based Integrated Healthcare Delivery System and Process.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) in view of Detjen et al. (5,970,466).

(A) As per claim 1-2, 8-10, and 13, Evans discloses an electronic medical records system for storage and retrieval of electronic medical records in a computer

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environment, such as a local or wider area network including portable computers

(Abstract; col. 1 lines 5-10) comprising:

(a) a patient data repository in communication with a point of care system to store and organize the patient data for access by the point of care system, wherein the patient data repository comprises a server computer having access to patient data stored in a relational database that accepts SQL data queries, wherein the point of care system captures patient data at a point of care by health care providers such as physicians or nurse practitioners from patients and communicates the patient data to the patient data repository (Fig. 1, 24, col. 2 lines 44-64, col. 12 line 55 to col. 14 line 25, and col. 16 lines 1-53);

(b) an input device such as keyboard, a mouse, or an electronic pen, for permitting a health care provider to enter, access, process, analyze, and annotate data from patient records in real-time at the point of care (col. 5 lines 1-28 and col. 7 lines 5-40);

(c) desktop computers, laptop computers, or wireless pen computers communicating through the world wide web portion of the Internet, WAN, or LAN (reads on "global communications network") with the patient data repository or database on the server for providing instant access to a patient's electronic medical record by authorized healthcare providers from any geographical location in order to analyze patient information to identify medication interactions and allergies and to enter patient diagnoses, procedure codes, and the administration of treatments (col. 5 lines 29-55,

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col. 11 lines 36-64, col. 12 line 55 to col. 14 line 25, and col. 14 line 42 to col. 15 line 32); and

(d) a graphical user interface to present and view patient data and touch screens to the enter patient data at the point of care (col. 5 line 55 to col. 6 line 9, col. 6 lines 36-55, col. 11 lines 30-35, and col. 14 lines 62-65).

Evans fails to expressly disclose using software downloaded to a server. Detjen discloses downloading programs over the Internet to a computer (col. 3 lines 25-65). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include the features of Detjen within the system of Evans with the motivation of easily and efficiently installing software programs on computers of a network, thus increasing the ease of use for users of the software.

(B) As per claim 3, Evans discloses obtaining an electronic medical record from the patient data repository to schedule an appointment with a physician and enter multiple procedure codes within a health care center, such as a hospital (see Scripps Health San Diego in Figure 24) (Figure 24, col. 5 lines 29-55, col. 11 lines 36-64, col. 12 line 55 to col. 13 line 30).

(C) As per claim 4, Evans discloses using point of capture devices, such as desktop computers, laptop computers, or wireless pen computers, over the world wide web for allowing remote authorized health care providers to access patient records (Figure 24 and col. 12 line 55 to col. 13 line 30).

(D) As per claim 5, Evans discloses allowing health care providers, such as clinics or laboratories, to communicate with the electronic medical records system using modem links and standard v.34 modem devices, such as a US Robotics Sportster 28,800 modem (col. 13 lines 53-56).

(E) As per claim 6, Evans discloses web browsers communicating with remote web servers using a WAN, the world wide web portion of the Internet, and LAN to allow authorized health care providers to access a patient's electronic medical record and to enter and update the patient's electronic medical record from the patient data repository, wherein a system administrator may have a global password access to any patient data for system maintenance and debug purposes (col. 12 line 55 to col. 15 line 32 and col. 16 lines 43).

(F) As per claim 7, Evans discloses physicians having access to only patient records within their specialty, and nurses and staff may have access to only those patient records within their immediate care using a tiered password system (col. 15 lines 20-33).

(G) As per claim 11, Detjen includes using an SVGA-compatible color monitor (col. 3 lines 25-38). The motivation for combining Detjen within Evans is as discussed above in claim 1, and incorporated herein.

(H) As per claim 12, Evans and Detjen fail to expressly disclose using an LCD screen. However, Evans includes using touch screens (col. 14 line 63). It is respectfully submitted that LCD screens are a typically used hardware component for viewing data, and the skilled artisan would have found it an obvious modification to include an LCD screen within the system taught collectively by Evans and Detjen with the motivation of allowing health care providers to remotely view patient data (Evans; col. 1 line 53 to col. 2 line 20).

(I) Method claim 14 differs from system claim 1 by reciting the steps of collecting information regarding patient from an information source, entering the data representing information collected from the information source into a database using a data entry device, using a computer to process the data using software, and communicating the plan of care to the requesting party. As per these steps, Evans discloses:

(a) capturing patient data electronically at the point of care by health care providers such as physicians or nurse practitioners (col. 2 lines 50-55 and col. 18 line 45);

(b) entering, accessing, processing, analyzing, and annotating data from patient records in real-time at the point of care using an input device such as keyboard, a mouse, or an electronic pen, by a health care provider into the patient data repository (Fig. 1 and 24, col. 5 line 1-28, and col. 7 lines 5-40);

(c) using database software such as Microsoft Access to organize and store data on a server (col. 12 line 55 to col. 14 line 25 and col. 16 lines 35-44); and

(d) communicating with the patient data capture practice guidelines regarding courses of action to obtain a diagnosis and alternative treatments for various conditions to the health care provider (col. 7 lines 40-64).

The remainder of claim 14 repeats the same limitations as claim 1, and is therefore rejected for the same reasons given for those claims.

(J) Claims 15-26 repeat the same limitations as claims 2-13, and are therefore rejected for the same reasons given above for those claims, and incorporated herein.

(K) Claim 27 repeat the subject matter of system claim 1 and method claim 14, respectively, as a computer readable medium including software rather than as system performing functions or as a series of steps. As the underlying processes of claims 1 and 14 have been shown to be fully disclosed by the collective teachings of Evans and Detjen in the above rejections of claims 1 and 14, it is readily apparent that the processor including programming languages and storage capacity within a server (Evans; col. 12 line 55 to col. 14 line 25) disclosed collectively by Evans and Detjen includes the software to perform the functionality and steps. As such, these limitations are rejected for the same reasons given above for system claim 1 and method claim 14, and incorporated herein.



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(L) Claim 28 repeats the same limitations as claims 1, 3, 7, and 14, and is therefore rejected for the same reasons given for those claims, and incorporated herein.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to the Applicant's disclosure. The cited but not applied prior art teaches an all care health management system (5,301,105), a system and method for managing patient medical records (5,772,585), an electronic clinical recording system (6,272,470), and an apparatus and method for processing and/or providing healthcare information (6,283,761).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn Bleck whose telephone number is (703) 305-3981. The Examiner can normally be reached on Monday-Thursday, 8:00am – 5:30pm, and from 8:30am – 5:00pm on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached at (703) 305-9588.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 306-1113.

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

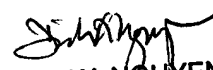
(703) 305-7687 [Official communications; including After Final  
communications labeled "Box AF"]

(703) 746-8374 [Informal/ Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington, VA, 7th Floor (Receptionist).

  
CB

March 18, 2003

  
DINH X. NGUYEN  
PRIMARY EXAMINER